UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,736	11/01/2000	Dong-seek Park	Q61436	1188

7590   12/16/2004

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EXAMINER
SCHEIBEL, ROBERT C

ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action	09/702,736	PARK ET AL.
	Examiner	Art Unit	
	Robert C. Scheibel	2666	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY [check either a) or b)]</u>

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: *See Continuation Sheet*.

3. ☒ Applicant's reply has overcome the following rejection(s): <u>13 and 14</u>.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: *13 and 14*.

    Claim(s) objected to: _____.

    Claim(s) rejected: *1,3,5-12,15 and 16*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

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Continuation of 2. NOTE: The rejection of claims 1, 3, and 5-12 under 35 U.S.C. 112, first paragraph, would be overcome by the proposed amendment. In addition, the rejection of claims 13 and 14 under 35 U.S.C. 103(a) would be withdrawn in view of applicant's remarks. Although applicant's remarks were directed towards claim 1, the same argument convinced the examiner that the current rejection of claims 13 and 14 would be withdrawn. These claims clearly indicate the four layers referred to by the applicant in the remarks and the prior art of record does not teach the use of a separate fourth bit stream identification layer.

Regarding the rejection of the remaining claims (1, 3, 5, 7-8, 10-11, 15, and 16 under 35 U.S.C. 102(e) and 6, 9, and 12 under 35 U.S.C. 103(a)), the examiner maintains the previous rejection as the applicant's arguments are not persuasive. Thus, the proposed amendment fails to place the application in condition for allowance. Specifically, applicant traverses the examiner's assertion that the limitation of the insertion of an identifier field in a bit stream reconfiguration layer is broadly interpretted and is anticipated by Mikkonen. The applicant further argues that Mikkonen teaches away from the applicant's "four-layer protocol" and thus the claims are in condition for allowance. Examiner found this argument persuasive with respect to claims 13 and 14 which claim four separate layers. However, the remaining claims do not specify four layers and simply require the identifier field to be inserted in a bit stream reconfiguration layer which is distinct from a user layer and a physical layer. Mikkonen teaches this with the radio flow ID discussed in the previous rejection. As further evidence that this ID, applicant is referred to lines 37-43 of column 7, lines 24-29 of column 8, and claim 4. Lines 3-6 of claim 4 indicate that the splitting of higher layer packets into smaller packets for transmission over the radio interface (see passage of column 7) is done in the data link layer and that these packets are all part of a radio flow. The above cited passage from column 8 indicates that a field in this layer is used to identify the radio flow. This layer is distinct from the other layers discussed in these claims (user and physical) and thus anticipates the "inserting" limitation. A similar argument applies to the remaining claims.